

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

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JUN - 8 1995  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

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Amendment to the Commission's )  
Regulatory Policies Governing )  
Domestic Fixed Satellites and )  
Separate International )  
Satellite Systems )

IB Docket No. 95-41

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TO: The Commission

COMMENTS OF PRIMESTAR PARTNERS L.P.

PRIMESTAR Partners L.P. ("PRIMESTAR"), by its undersigned counsel, submits the following Comments in response to the Commission's Notice of Proposed Rulemaking ("Notice") in this proceeding.<sup>1</sup>

PRIMESTAR is a partnership of affiliates of six of the leading United States cable television companies and G.E. American Communications, Inc. ("GE Americom"). Since 1990, PRIMESTAR has provided satellite-delivered direct-to-home ("DTH") television service in the United States, employing medium-powered domestic Ku-band transponder capacity on the GE Americom K-1 spacecraft. It currently offers 73 channels of digital, video and audio programming services. Beginning in 1996, PRIMESTAR plans to migrate its services to a high-powered direct broadcast service ("DBS") satellite, at which point it will begin providing some 200

<sup>1</sup> FCC 95-146, released April 25, 1995.

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digital channels of video and audio programming to the domestic U.S. marketplace. As a leading provider of DTH services in the United States, PRIMESTAR is interested in providing in the future DTH and DBS services in the markets of other countries, as well.

PRIMESTAR's comments in this proceeding are limited to the Commission's request for views on the prospective extension of a single regulatory scheme proposed for all U.S.-licensed geostationary fixed-service satellites to encompass DBS satellites, as well.<sup>2</sup> PRIMESTAR supports competitive entry into the satellite arena by multiple operators, and believes that the Commission's proposed regulatory approach would be of positive benefit to DBS, as well as to the fixed-service sector. The globalization of the telecommunications industry cited by the Commission in its Notice<sup>3</sup> is equally applicable from a technological and economic perspective to DBS. PRIMESTAR believes that adoption of the Commission's proposed rules for DBS would serve PRIMESTAR's long-term objective of accessing foreign markets.

PRIMESTAR is aware, however, that not all countries in the region of the United States follow open-entry policies with regard to satellite operators, and in particular with regard to DTH and DBS services. In the case of Canada in particular, the Canadian Radio-television Telecommunications Commission recently has adopted new policies which discriminate against non-Canadian

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<sup>2</sup> Notice, ¶¶ 1, 38.

<sup>3</sup> Id., ¶¶ 16-17.

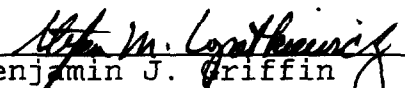
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satellite service providers and discourage them from attempting to offer DTH or DBS services in the Canadian domestic market.

As a result, PRIMESTAR submits that, in its consideration of liberalized or streamlined regulations for domestic and international satellite licensees, the Commission should continue to be sensitive to the need for reciprocal standards by other countries in order to ensure that U.S. competitors are treated fairly. The Commission, therefore, should condition any permission given to foreign entities to offer service via satellite to the U.S. market on the reciprocal treatment of U.S. companies by the service provider's government.<sup>4</sup>

Respectfully submitted,

**PRIMESTAR PARTNERS L.P.**

By:

  
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June 8, 1995

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<sup>4</sup> See Market Entry and Regulation of Foreign-Affiliated Entities, Notice of Proposed Rulemaking, IB docket No. 95-22, RM-8355, RM-8392, FCC 95-53 (released Feb. 17, 1995). Simultaneously herewith PRIMESTAR is filing Comments (copy attached) in support of a pending Petition by DIRECTV, Inc. for a Declaratory Ruling regarding an effort by a Canadian service provider to offer DTH services transmitted from Canada into the United States by means of a U.S. spacecraft.

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In the Matter of	)	
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Transborder Authorization	)	File No. 107-SAT-MISC-95
of AT&T Corp. To Provide	)	
Canadian Direct-to-Home Satellite	)	
Services in the United States	)	

TO: The Commission

**COMMENTS IN SUPPORT OF DIRECTV  
PETITION FOR DECLARATORY RULING**

PRIMESTAR Partners L.P. ("PRIMESTAR"), by its undersigned counsel, submits these Comments in support of the above-captioned Petition for Declaratory Ruling (the "Petition") filed by DIRECTV, Inc. ("DIRECTV") on April 24, 1995. In the Petition, DIRECTV urges the Commission to prevent or restrict AT&T from leasing capacity on its Telstar 402R spacecraft to a Canadian company, Tee-Comm Electronics, Inc. ("Tee-Comm"), for the provision of direct-to-home ("DTH") television service originating in Canada and transmitting into the United States. Although PRIMESTAR does not object to the competitive entry of Tee-Comm into the United States DTH arena, it submits that the Commission should condition Tee-Comm's entry on the Canadian government's grant of reciprocal rights to permit U.S. companies to compete in the Canadian DTH market.

PRIMESTAR is a partnership of affiliates of six of the leading United States cable television companies and G.E. American Communications, Inc. ("GE Americom"). Since 1990, PRIMESTAR has provided DTH service in the United States, employing medium-powered domestic Ku-band transponder capacity on the GE Americom K-1 spacecraft. It currently offers 73 channels of digital, video and audio programming services. Beginning in 1996, Primestar plans to migrate its services to a high-powered direct broadcast service ("DBS") satellite, at which point it will begin providing some 200 digital channels of video and audio programming to the American audience. Primestar has observed the development of and is strongly aware of the regulatory obstacles identified by DIRECTV which the Canadian Radio-television Telecommunications Commission ("CRTC") has created to prevent non-Canadian operators from providing DTH or DBS services to the Canadian market.

PRIMESTAR concurs with DIRECTV's position that it would be inherently unfair to U.S. satellite television distributors, like itself, to permit Tee-Comm to provide DTH services from Canada into the U.S. marketplace by means of a domestic U.S. satellite. Tee-Comm is a member of the Canadian Expressvu consortium which has promoted and is proposing to provide DTH services in Canada. Under Canadian regulations, Expressvu has an advantage over U.S. companies in the provision of DTH service.<sup>1</sup> While PRIMESTAR has

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<sup>1</sup> The Canadian regulations require DTH providers to be 80% Canadian owned, which puts U.S. companies, such as DIRECTV at a distinct disadvantage.

not taken the regulatory steps which DIRECTV has to qualify itself to do business in Canada, PRIMESTAR would have an interest in competing in this marketplace, but those prospects are impaired as a result of the discriminatory and protectionist policies which the Canadian government has adopted. PRIMESTAR further agrees with DIRECTV's position that the type of service which Tee-Comm would provide by means of the AT&T 402R spacecraft would fall outside the scope of the current U.S.-Canada understanding on transborder satellite services (see Petition, at 11-15).

The Commission already has initiated a proceeding to adopt new rules which would condition access by foreign telecommunications service providers to the U.S. market on whether the home markets of such service providers are reciprocally open to U.S. competitors.<sup>2</sup> In its proposed rulemaking, the Commission has explained it seeks to limit the ability of foreign competitors to gain an unfair advantage over U.S. service providers due to restrictive governmental trade policies and practices.<sup>3</sup> PRIMESTAR concurs with DIRECTV that the objectives of this rulemaking are fully applicable to Tee-Comm under the present circumstances, and that any grant of authority by the Commission to AT&T to provide capacity to Tee-Comm's planned DTH service on the Telstar 402R or

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<sup>2</sup> *Market Entry and Regulation of Foreign-Affiliated Entities*, Notice of Proposed Rulemaking, IB Docket No. 95-22, RM-8355, RM-8392, FCC 95-53 (released Feb. 17, 1995) (hereinafter, "*NPRM*").

<sup>3</sup> *Id.*, ¶29.

any other spacecraft be conditioned on a prior acceptable showing that U.S. DBS and DTH service providers are accorded like opportunity to access the Canadian market.<sup>4</sup>

The Commission also has currently under consideration a separate proposed rulemaking to eliminate its transborder satellite policy and to allow domestic satellite operators to provide transborder services without special FCC approval.<sup>5</sup> PRIMESTAR submits that, if this proposed procedural change is adopted, the Commission should retain the authority to condition access by foreign service providers on reciprocal treatment in foreign markets of U.S. competitors, and that this condition should be made applicable to Tee-Comm with regard to its provision of DTH services from Canada into the United States in particular.

For the foregoing reasons, PRIMESTAR submits that AT&T's provision of transponder capacity to Tee-Comm for the intended DTH service into the United States should be conditioned on proof to

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<sup>4</sup> The Commission might, in this regard, make consideration of AT&T's anticipated application for authority to provide transborder services on the 402R spacecraft a part of the *NPRM* proceeding. Tee-Comm's ability to provide its intended services into the United States by means of any spacecraft, U.S. or Canadian, should be conditioned by the Commission as set forth above for the reasons stated.

<sup>5</sup> *Amendment to the Commission's Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems*, Notice of Proposed Rulemaking, IB Docket No. 95-41, FCC 95-146 (released April 25, 1995).

the Commission of reciprocal regulatory treatment of U.S. DTH and DBS service providers in Canada.

Respectfully submitted,

**PRIMESTAR PARTNERS L.P.**

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